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DIVISION OF
OIL GAS & MINING

March 30, 1992

HAND DELIVERED

Don A. Ostler, P.E.
Executive Secretary
Utah Water Quality Board
Department of Environmental Quality
Salt Lake City, Utah 84114-4810

Re: Barrick Mercur Notice of Violation and Order, Docket No. GW92-02

Dear Mr. Ostler:

Enclosed is the Response to Notice of Violation and Order and Request For Hearing of Barrick Resources (USA), Inc. in connection with the above referenced Notice of Violation and Order.

Please contact me if you have any questions or require any additional information.

Very truly yours,

PARSONS BEHLE & LATIMER


Lucy B. Jenkins

LBJ:jdj

Enclosure

cc: Frank D. Wicks
Glenn Eurick
Ken Alkema
Douglas R. Credille
Ken Bousefield
Wayne Hedberg
Glade Shelly
Myron Bateman

UTAH WATER QUALITY BOARD

IN THE MATTER OF	:	DOCKET NUMBER GW92-02
BARRICK RESOURCES (USA), INC.	:	RESPONSE TO NOTICE OF
MERCUR MINE	:	VIOLATION AND ORDER
TOOELE, UTAH	:	AND REQUEST FOR HEARING

RESPONSE TO NOTICE OF VIOLATION AND ORDER

Barrick Resources (USA), Inc. ("Barrick") responds as follows to the above referenced Notice of Violation and Order issued by the Utah Water Quality Board (the "Board").

FINDINGS

1. In response to the allegations of Paragraph 1 of the Board's Findings, Barrick admits that it operates a tailings impoundment facility located at the Tooele/Utah County border in Section 5 of Township 6 South, Range 3 West. However, the facility is used for the disposal of beneficiation wastes from the processing of ore and the facility is located in Reservation Canyon. The facility includes an inactive reclaim water cell constructed between the existing saddle dam and the tailings deposition area within the tailings impoundment.

2. In response to the allegations of Paragraph 2 of the Board's Findings, Barrick admits that the Mannings Canyon area is a recharge zone for wells and springs in the area of Fairfield City which is located approximately six miles downgradient from Barrick's operation. Barrick asserts that Utah Code Ann. §19-5-102(16) speaks for itself and therefore denies the allegations concerning the characterization of ground waters and surface drainages in the vicinity of Barrick's operation as "waters of the state".

3. Barrick asserts that Utah Code Ann. §19-5-107(1) speaks for itself and therefore denies the allegations of Paragraph 3 of the Board's Findings.

4. Barrick asserts that Utah Code Ann. §19-5-107(2)(a) and Utah Administrative Code ("UAC") R317-8-211 and R317-6-6.1.A speak for themselves and therefore denies the allegations of Paragraph 4 of the Board's Findings.

5. Barrick admits the allegations of Paragraph 5 of the Board's Findings. However, Barrick asserts that it filed an application in March 1991 for a ground water discharge permit for discharge from the tailings impoundment to the Mannings Canyon area.

6A. Barrick admits that to the best of its knowledge, the allegations of Paragraph 6A of the Board's Findings are accurate.

6B. In response to the allegations of Paragraph 6B of the Board's Findings, Barrick admits that the lined containment pond located below the inactive reclaim water cell continued to overflow until February 19, 1992, after the discharge from the cell had stopped on February 17, 1992. However, the reason for the continued overflow was because the pond continued to receive run-off from snow melt. Barrick has not reviewed the data resulting from the sample collected by the Division of Water Quality (the "Division") on February 18, 1992 and therefore denies the allegation concerning the level of cyanide. Furthermore, Paragraph 6B is inconsistent concerning the level of cyanide: the level given in the text is 18,370 ug/L and the level given in the table is 19.58 mg/L. Barrick denies that the discharge has the potential to adversely impact public health and the environment and asserts that one sample cannot be the basis for such a conclusion. Barrick's response to the information set forth in the table are as follows:

(1) Barrick denies that Mannings Canyon has been classified as 3B by the Division. See response to Paragraph 14 of the Board's Findings below.

(2) Barrick has not reviewed the data resulting from the sample collected by the Division on February 18, 1992 and therefore denies the allegations concerning the levels of pH, cadmium, mercury, cyanide and sulfate.

(3) Barrick denies that the discharge exceeded ground water quality standards for cyanide or sulfate because there are no ground water quality standards for cyanide or sulfate. EPA Drinking Water Health Advisories and Standards are not equivalent to Utah ground water quality standards.

(4) Barrick denies that the discharge exceeded the ground water quality standards for cadmium or mercury because there is no evidence that the discharge or the constituents of the discharge reached the ground water. Barrick asserts that the potential for impact from the cyanide release to the ground water is minimal for the following reasons:

-Minor infiltration occurred in the areas of primary surface flow because the release traveled downgradient quickly.

-In areas of ponding, significant dilution has occurred with the addition of runoff from melted snow. Barrick collected a sample from the ponded solution and found less than one part per million of free cyanide.

-Natural degradation of free cyanide occurred when exposed to the atmosphere and on contact with the surface. Continued degradation of the dilute cyanide solution occurred as it infiltrated vertically.

7. Barrick asserts that UAC R317-1.26 speaks for itself and therefore denies the allegations of Paragraph 7 of the Board's Findings.

8. Barrick asserts that Utah Code Ann. §19-5-107(2)(b) speaks for itself and therefore denies the allegations of Paragraph 8 of the Board's Findings.

9. Barrick asserts that UAC R317-1-27 speaks for itself and therefore denies the allegations of Paragraph 9 of the Board's Findings.

10. Barrick asserts that UAC R317-1-2.1 speaks for itself and therefore denies the allegations of Paragraph 10 of the Board's Findings.

11. See Barrick's response to Paragraph 6 of the Board's findings above.

12. Barrick asserts that UAC R317-1-2.2 speaks for itself and therefore denies the allegations of Paragraph 12 of the Board's Findings.

13. In response to the allegations of Paragraph 13 of the Board's Findings, a permit is not required for the construction, operation or modification of the water reclaim cell because it does not qualify as a treatment works. The water reclaim cell was originally designed as an interior reservoir to hold a supply of clear process water for recirculation to the beneficiation process. Process water from the tailings impoundment was pumped to the water reclaim cell and then recirculated for use in the beneficiation process. The process water is not a waste. Barrick discontinued use of the water reclaim cell as a reservoir of water from the tailings impoundment in approximately 1988. The water reclaim cell continues to collect water which infiltrates from the tailings impoundment consistent with the original design of the levy which created the water reclaim cell. The water reclaim cell also collects precipitation. The water which continues to collect in the cell is still recirculated for use in the beneficiation circuit.

Furthermore, before construction of the water reclaim cell, Barrick notified the State Engineer's office, which did not require

approval to construct the cell. Attached as Exhibit "A" is a copy of a letter dated January 13, 1988 from the State Engineer's office to Barrick indicating no approval was necessary. The Division was aware of the water reclaim cell since the time of construction and has never in the past taken the position that a permit was required. Barrick has not modified the water reclaim cell since construction. The gravity feed water reclaim water line was installed when the saddle dam was constructed. Attached as Exhibits "B" and "C" are letters dated January 3, 1985 and July 5, 1985 from the State Engineer's office and the Division approving the construction plans for the saddle dam. The construction plans include the gravity feed water reclaim water line.

14. In response to the allegations of Paragraph 14 of the Board's Findings, Barrick asserts that UAC R317-2-7.1 and R317-2-14.2 and the EPA Drinking Water Health Advisory for cyanide speak for themselves and therefore denies the allegations regarding the same. Barrick denies that UAC R317.2 classifies Mannings Canyon as 3B. First, UAC R317.2 does not classify the Jordan River and its tributaries as 3B. Second, Mannings Canyon is not a tributary to the Jordan River. The Mannings Canyon drainage drains southeast to an area identified on the topographical map as the "Sinks" which does not appear to have an outlet.

15. Barrick asserts that Utah Code Ann. §19-5-114 speaks for itself and therefore denies the allegations of Paragraph 15 of the Board's Findings.

16. Barrick admits the allegations of Paragraph 16 of the Board's Findings. Barrick notified the Division of Environmental Response and Remediation as soon as it was aware of the extent of the discharge and the resulting damage and after it had first taken steps to control the discharge. Barrick attempted to notify the Division of Water Quality on the February 17, the day of the discharge, but February 17 was President's Day and the offices were closed.

VIOLATIONS

1. In response to the allegations of Paragraph 1 of the Board's Violations, Barrick denies that it is in violation of Utah Code Ann. §19-5-107(1) by placing wastes in a location where there is probable cause to believe pollution will result. Barrick did not "place" wastes into the environment; rather Barrick had an accidental discharge of process water from the inactive reclaim water cell.

2. In response to the allegations of Paragraph 2 of the Board's Violations, Barrick denies that it had an unpermitted discharge to both surface and ground water in violation of Utah Code Ann. §19-5-107(2)(a). Barrick accidentally discharged process

water to the surface downgradient from the tailings impoundment. There is no evidence of a discharge to ground water and there is no nearby surface water.

3. In response to the allegations of Paragraph 3 of the Board's Violations, Barrick denies that it is operating a facility which would probably result in a discharge without a permit in violation of Utah Code Ann. §19-5-107(2)(b). As explained above in response to Paragraph 13 of the Board's Findings, the inactive water reclaim cell does not qualify as a treatment works.

4. In response to the allegations of Paragraph 4 of the Board's Violations, Barrick denies that it has violated state water quality standards in violation of UAC R317-1-2.7. See response above to Paragraph 14 of the Board's Findings.

5. In response to the allegations of Paragraph 5 of the Board's Violations, Barrick denies that it is in violation of UAC R317-1-2.1. See response above to Paragraph 3 of the Board's Violations.

6. In response to the allegations of Paragraph 6 of the Board's Violations, Barrick denies that it is operating a facility in violation of UAC R317-1-2.7. See response above to Paragraph 3 of the Board's Violations.

7. In response to the allegations of Paragraph 7 of the Board's Violations, Barrick denies that it failed to obtain a construction permit for the modification or construction of a treatment works in violation of UAC R317-1-2.2. See response above to Paragraph 3 of the Board's Violations.

8. In response to the allegations of Paragraph 8 of the Board's Violations, Barrick denies that it failed to immediately notify the Executive Secretary of an ongoing spill event. See Barrick's response above to Paragraph 16 of the Board's Findings.

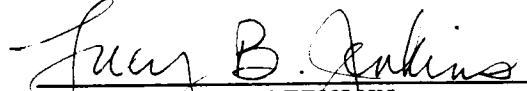
GENERAL DENIAL

Barrick denies each and every allegation of the Findings and Violations sections of the Board's Notice of Violation and which are not specifically admitted in Barrick's responses above.

REQUEST FOR HEARING

Barrick hereby requests a hearing before the Utah Water Quality Board.

Dated this 30th day of March, 1992.

A handwritten signature in dark ink, appearing to read "David W. Tundermann", is written over a horizontal line.

DAVID W. TUNDERMANN

LUCY B. JENKINS

of and for

PARSONS BEHLE & LATIMER

Attorneys for Barrick Resources
(USA) Inc.



STATE OF UTAH
NATURAL RESOURCES
Water Rights

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Robert L. Morgan, State Engineer

1636 West North Temple • Suite 220 • Salt Lake City, UT 84116-3156 • 801-533-6071

January 13, 1988

Ralph R. Sacrison, P.E.
Construction Engineer
Barrick Mercur Gold Mines, Inc.
P.O. Box 838
Tocole, UT 84074-0838

Re: Barrick Mercur Gold Mine Tailings Reservoir Dike Modifications

Dear Mr. Sacrison:

This letter is written to summarize the discussions you had with Richard Hall of our Dam Safety Section on January 13, 1988.

It is our understanding that you propose to construct a dike some 380 feet upstream of the existing saddle dam in the tailings reservoir. The dike, as proposed, will be some 850 feet long and some 70 feet high with a maximum crest elevation of 7230 feet. It is also our understanding that the purpose of the dike is to provide for a reclaim water pond between the dike and the saddle dam.

Since the dike is located in the reservoir basin, we will not require approval by this office, provided the elevation of the crest of the dike is maintained at a minimum of 1 foot below the elevation of the main dam or the saddle dam. This waiver is only valid up to elevation 7230.

Your cooperation is appreciated and if you have any questions, please feel free to contact Richard Hall of our Dam Safety Section.

Sincerely,

A handwritten signature in black ink, reading "Robert L. Morgan".

Robert L. Morgan, P.E.
State Engineer

RLM:RBH

cc: Jim Riley, Weber Area Engineer



STATE OF UTAH
NATURAL RESOURCES & ENERGY
Water Rights

1636 West North Temple • Salt Lake City, UT 84116 • 801-533-6071

Scott M. Matheson, Governor
Temple A. Reynolds, Executive Director
Dee C. Hansen, State Engineer

January 3, 1985

Mr. Glenn M. Eurick
Environmental & Occupational Health Coordinator
Getty Mining Company
P.O. Box 838
Tooele, Utah 84074-0838

Dear Mr. Eurick:

Re: Saddle Dam Reservoir

Plans and specifications for the above-mentioned project have been reviewed and approved by this office subject to the following conditions:

1. That this office be supplied with the names and qualifications of the inspectors for the project prior to the start of construction.
2. That this office be supplied with copies of the daily inspection reports. These are to be submitted weekly.
3. That this office be notified when the final foundation has been prepared so that it can be inspected prior to the placement of any fill material.
4. That this office be supplied with the results of all material tests performed during the construction period. The results of these tests should be submitted with the weekly inspection reports.
5. That this office be notified of the contractor and his estimated starting and completion dates. The name of the contractor's representative shall also be supplied.
6. That this office be notified of any change in the construction practice, or materials to be used that are not represented by the construction documents on file. Any major changes must be approved in writing prior to their use or construction.

Deputy State Engineer/Earl M. Staker Directing Engineers/Harold D. Donaldson • Donald C. Norseth
Stanley Green • Robert L. Morgan

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Mr. Glenn M. Eurick
Page Two
January 3, 1985

8. That this office be supplied with a final reproducible copy of the plans that represent the "as-constructed" project, and a copy of the final report concerning Zone V Material Soils Investigation.
9. That this office be notified and involved in a final inspection of the constructed project that involves all interested parties. It should be understood that storage is not allowed until approval of the completed project is given.

If you have any questions concerning the approval of this project, please feel free to contact me or Bob Morgan of my staff.

Yours truly,

Robert L. Morgan
For Dee C. Hansen, P.E.
State Engineer

DCH:rlm

cc: Kent Jones, Weber Area Engineer
Department of Health



STATE OF UTAH
DEPARTMENT OF HEALTH

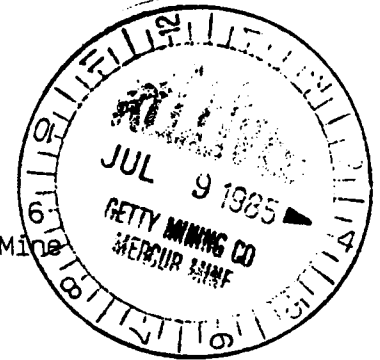
NORMAN H. BANGERTER, GOVERNOR

SUZANNE DANDOO, M.D., M.P.H., EXECUTIVE DIRECTOR

July 5, 1985
533-6146

Mr. Robert H. Migliaccio, General Manager
Getty Mining Company
P.O. Box 838
Tooele, Utah 84074-0838

RE: Getty Mercur Mine
Saddle Dam
Approval



Dear Mr. Migliaccio:

We have reviewed the plans for the modifications to the Saddle Dam facility which was approved by the Utah State Engineer January 3, 1985.

The modifications appear to be in substantial compliance with the Code of Wastewater Disposal Regulations and a construction permit as constituted by this letter is hereby issued.

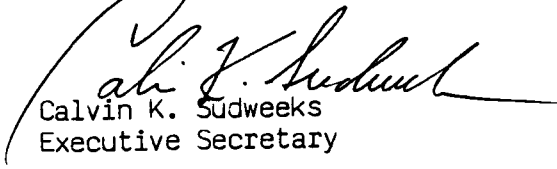
The Saddle Dam will allow the tailing dam pond to reach its design depth.

A set of approved plans are transmitted herewith bearing our construction permit stamp for your files.

Please call if there are any questions.

Sincerely,

UTAH WATER POLLUTION CONTROL COMMITTEE


Calvin K. Sudweeks
Executive Secretary

CDG:tf
cc: Glenn Eurick, Getty Mining
Tooele County Health Department
3252